

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

RITA MONTESI,)	
)	
Plaintiff,)	No. _____
)	
v.)	
)	Jury Demanded
NATIONWIDE MUTUAL INSURANCE)	
COMPANY,)	
)	
Defendants\S.)	

NOTICE OF REMOVAL

Nationwide Mutual Insurance Company is a Defendant in the civil action brought on April 25, 2012 in the Circuit Court of Shelby County, Tennessee. Pursuant to provisions of 28 U.S.C. §§ 1441 and 1446, this Defendant gives notice to the Honorable Judges of the United States District Court for the Western District of Tennessee, Western Division, of removal of this action to the United States District Court for the Western District of Tennessee, Western Division, which is the judicial district and division in which the state action is pending.

1. The grounds for removal of this action are:

(a) On April 25, 2012, the Plaintiff commenced an action against Defendant in the Circuit Court of Shelby County, Tennessee, *Rita Montesi v. Nationwide Mutual Insurance Company*, Docket No. CT-001843-12, attached hereto as Exhibit A.

(b) To the best of Defendant's knowledge, service was received by the Commissioner of Insurance for the State of Tennessee. To date service has not yet been returned by the Commissioner of Insurance.

(c) The Plaintiff is a citizen and resident of the State of Tennessee. Defendant is an Ohio corporation with its principal place of business in Columbus, Ohio. Therefore, complete diversity of citizenship exists between the Plaintiff and Defendant in this action.

(d) The Plaintiff's Complaint seeks:

1. unspecified "actual" damages;
2. treble damages under the Tennessee Consumer Protection Act ("TCPA");
3. bad faith penalties and punitive damages; and
4. attorneys' fees and costs.

(e) Consequently, the amount prayed for the in the Plaintiffs' Complaint exceeds Seventy-Five Thousand Dollars (\$75,000) as required by 28 U.S.C. § 1332.

(f) The action is a civil action for damages arising out of a bad faith denial of an insurance claim.

2. This Court would have original subject matter jurisdiction over this action under the provisions of 28 U.S.C. § 1332 if the action had originally been brought in Federal Court. Removal is, therefore, proper under 28 U.S.C. § 1441(a).

3. Removal of this case on the basis of diversity of citizenship is not precluded by any of the provisions of 28 U.S.C. § 1441(b).

4. This Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b) in that this matter was filed on April 25, 2012. This Notice of Removal is filed within thirty (30) days of filing and is thus timely filed under 28 U.S.C. § 1446(b). By filing this removal, Defendant does not waive deficiencies in service of process, if any.

WHEREFORE, the removing party prays that the above-entitled action be removed from the Circuit Court of Shelby County, Tennessee to this Court.

Respectfully submitted,

BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ

/s/ Stacie S. Winkler

Bruce A. McMullen, Esq. (#18126)

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 25th day of May 2012, a copy of the foregoing was electronically filed and served on the party listed below via first class mail, postage prepaid, unless said party is a registered CM/ECF participant who has consented to electronic notice, and the Notice of Electronic Filing indicates that Notice was electronically mailed to said party:

Stephen R. Leffler
Law Office of Stephen R. Leffler, P.C.
707 Adams Avenue
Memphis, TN 38105

/s/ Stacie S. Winkler

Stacie S. Winkler